

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW HAMPSHIRE**

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Wayne Carter, et al.  
Plaintiffs

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vs.

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Commissioner,  
New Hampshire Department of Health and  
Human Services,  
Defendant.

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CASE NO. 1:07-cv-00023-SM

**AFFIDAVIT OF DAVID WOLOWITZ**

1. My name is David Wolowitz. I am a director in the firm of McLane, Graf, Raulerson & Middleton, Professional Association, 900 Elm Street, Manchester, New Hampshire 03101. I have been a practicing lawyer in New Hampshire since 1975. I am a member of the bar in the States of New Hampshire and Massachusetts. I am admitted to practice in the United States District Courts for the District of New Hampshire, the District of Massachusetts and the First Circuit Court of Appeals.

2. I am a senior litigator in the litigation department of a New Hampshire law firm that currently has 83 attorneys. I have substantial litigation experience including criminal defense, plaintiffs personal injury, professional malpractice defense, complex probate litigation, complex commercial litigation, and litigation involving federal and State constitutional issues. I have an active litigation practice in the Superior, Probate and Federal Courts in both New Hampshire and Massachusetts. I have been invited to be a guest faculty for the Harvard Law School Trial Advocacy Workshop annually since 1984.

3. In the interest of full disclosure, I should note that I began my legal career in New Hampshire in the Keene office of New Hampshire Legal Assistance in the summer of 1974 as a summer law student at the University of Michigan Law School. I was hired by New Hampshire Legal Assistance upon graduating from law school and worked in the Concord office of New Hampshire Legal Assistance from 1975 to 1977 and then in the Portsmouth office of New Hampshire Legal Assistance as a managing attorney from 1977 to 1979.

4. I am familiar with the legal fees charged by members of my firm. I am also aware of fees charged by other firms in New Hampshire and Massachusetts as a result of litigated matters in which fees have become an issue.

5. I have been requested by Attorney Kay Drought, litigation director for New Hampshire Legal Assistance (NHLA) to provide my opinion on what would be comparable 2008 rates in the federal district of New Hampshire for the various members of the Plaintiffs' legal team in this matter.

6. In preparation for rendering my opinion, I reviewed correspondence from Attorney Drought regarding the nature of the services performed by the various attorneys and their qualifications. I also reviewed some of the pleadings in this matter including the Plaintiffs' Class Action Complaint and the Plaintiffs' Motion for Preliminary Approval of a Proposed Class Action Settlement, including attachments. I also reviewed the Pacer Docket. I also reviewed the rates, education and experience of over 30 litigation attorneys in my firm with particular emphasis on those attorneys with comparable qualifications and experience to the attorneys on the Plaintiffs trial team. It is my opinion that comparable attorneys in my firm involved in a similar matter would charge hourly rates as follows:

- a. Marc Cohen, National Center for Law and Economic Justice, \$340 - \$350.
- b. Kay Drought, NHLA, \$325 - \$335.
- c. Aaron Ginsberg, DRC, \$175.

- d. Christine Lavalley, NHLA, \$200 - \$210.
- e. Mary R. Mannix, National Center for Law and Economic Justice, \$340 – \$350
- f. Amy Messer, DRC, \$315 - \$325.
- g. Ben Mortell, NHLA, \$270 - \$290.
- h. Laura Redman, National Center for Law and Economic Justice, \$200 - \$210.

Respectfully submitted,

Date: 3/31/08

/s/ David Wolowitz  
David Wolowitz

State of New Hampshire  
County of Rockingham

This instrument was acknowledged before me on March 31, 2008 by David Wolowitz.

/s/ Denis P. Dillon  
Notary Public  
My commission expires: March 29, 2009